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September 20, 2024

Honorable Lewis A. Kaplan  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: *In re Customs and Tax Administration of the Kingdom of Denmark (Skatteforvalningen)*  
*Tax Refund Scheme Litigation*, 18-md-2865 (LAK)

Dear Judge Kaplan:

Defendant Michael Ben-Jacob respectfully submits this letter brief attaching a proposed special verdict form as to the claims and defenses relevant to him (Exhibit A). Counsel for Ben-Jacob met and conferred in good faith multiple times with SKAT and with the other defendants (the “other parties”) with the goal of reaching agreement on a single verdict form. Ben-Jacob’s proposed verdict form hews closely both to SKAT’s original proposed verdict form and to the New York pattern jury instructions, and it accounts for many of SKAT’s suggestions that arose during the meet and confer process (e.g., removing certain affirmative defenses and revising the questions for certain causes of action). But given the fundamental structural differences between the form ultimately proposed by the other parties and that proposed by Ben-Jacob, we provide this submission to explain the import of the differences and why Ben-Jacob’s proposal should be adopted as to him.

**First**, the other parties’ form begins with three overarching questions, untethered to a particular defendant or cause of action, and asks the jury to answer as to every plan at issue in this case: (1) whether the plan submitted reclaim applications containing a material false statement; (2) whether SKAT justifiably relied on the false statement contained in the reclaim application; and (3) whether SKAT sustained damages due to its justifiable reliance. The form then refers back to and relies on the jury’s responses to these three questions in subsequent liability sections for each defendant, including Ben-Jacob. It is both confusing and improper to carve out certain elements of a claim for the jury to answer in the abstract, without any consideration for the facts specific to Ben-Jacob. For example, under the other parties’ proposal, SKAT need not prove that it reasonably relied on any false statement made *by Ben-Jacob* in order for the jury to return a fraud verdict against him. Ben-Jacob’s liability must be determined via questions about *his* conduct and intent and with questions tracking the elements of each claim against him.

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**Second**, the other parties' form includes questions as to various elements of each cause of action but misleads the jury into thinking that liability as to one plan is sufficient to award damages for all. While each cause of action reasonably and appropriately starts by requiring a "yes" or "no" response as to *each plan at issue* for the first element (e.g., "For each of the plans listed below . . . did Plaintiff prove . . . that [defendant] made or caused a false, material statement of fact to be made to Plaintiff?"), for the remaining elements of each cause of action, jurors are asked to provide only one "yes" or "no" response without distinguishing among the plans as they were asked to do for the first element. This formulation is not only unnecessarily confusing, but more importantly, it allows for a liability finding as to a given plan without a determination that each element of a cause of action has been met as to that plan. This invites error in its own right. But it is further compounded by the fact that the jury is asked to calculate damages on a plan-by-plan basis. Without requiring the jury to make a determination for each plan at issue on every element of a cause of action (thus determining which plans form the basis of a defendant's liability), it is impossible for the jury to know for which plans they can assess damages on a given cause of action. Ben-Jacob's form solves this using a format that SKAT itself originally proposed—listing and requiring a determination on each plan at issue under every element of a cause of action.

**Third**, the other parties' proposal does not account for the fact that the claims SKAT has brought against Ben-Jacob are each based on different sets and subsets of plans, and thus different amounts of damages are available for different claims. For example, SKAT has asserted fraud and negligent misrepresentation against Ben-Jacob as to only nine plans, while its claims against him for conspiracy and aiding and abetting relate to a broader set. Ben-Jacob's financial exposure for fraud and negligent misrepresentation is therefore hundreds of millions of dollars lower than that of the other claims against him. The verdict form should enable the jury to award damages that accurately reflect what may be recovered for a particular claim. Ben-Jacob's form prevents the jury from erroneously awarding damages as to a given plan based on a cause of action that is unrelated to that plan. By contrast, the other parties' proposal lumps all causes of action together into one damages question, inviting the jury to assign damages in a manner that is inconsistent with the damages that are available for a particular claim under SKAT's complaints. Moreover, this formulation makes it impossible to avoid or assess any duplicative damages awards across claims against Ben-Jacob.

**Finally**, Ben Jacob's proposed form does not include a question regarding punitive damages, as SKAT cannot meet the requirements necessary to request them from Ben-Jacob. The circumstances in which New York law allows punitive damages are "singularly rare." *Saadeh v. Kagan*, 2023 WL 6850481, at \*1 (S.D.N.Y. Oct. 17, 2023) (citing *Walker v. Sheldon*, 10 N.Y.2d 401, 405 (1961)). To pursue punitive damages, SKAT must establish that Ben-Jacob's "wrongdoing is not simply intentional but evinces a high degree of moral turpitude" and "such wanton dishonesty as to imply a criminal indifference to civil obligations." *Hoeffner v. Orrick, Herrington & Sutcliffe LLP*, 85 A.D.3d 457, 458 (2011) (internal citations and quotation marks omitted). SKAT has not and cannot put forth such evidence against Ben-Jacob.

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For these reasons, Ben-Jacob respectfully requests that the Court adopt his proposed special verdict form.<sup>1</sup>

Very truly yours,

KEKER, VAN NEST & PETERS LLP

A handwritten signature in black ink, appearing to read "Elliot R. Peters". The signature is fluid and cursive, with the first name "Elliot" and last name "Peters" being the most legible parts.

Elliot R. Peters

ERP:

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<sup>1</sup> To the extent the Court does not adopt Ben-Jacob's proposed form, Ben-Jacob joins the other defendants' objections set forth in the other parties' proposed form.

# EXHIBIT A

IN RE CUSTOMS AND TAX ADMINISTRATION OF  
THE KINGDOM OF DENMARK  
(SKATTEFORVALTNINGEN) TAX REFUND SCHEME  
LITIGATION

MASTER DOCKET

18-md-2865 (LAK)

This document relates to case nos.: 18-cv-04434; 18-cv-07824; 18-cv-07827; 18-cv-07828; 18-cv-07829; 19-cv-01781; 19-cv-01783; 19-cv-01785; 19-cv-01788; 19-cv-01791; 19-cv-01792; 19-cv-01794; 19-cv-01798; 19-cv-01800; 19-cv-01801; 19-cv-01803; 19-cv-01806; 19-cv-01808; 19-cv-01809; 19-cv-01810; 19-cv-01812; 19-cv-01813; 19-cv-01815; 19-cv-01818; 19-cv-01866; 19-cv-01867; 19-cv-01868; 19-cv-01869; 19-cv-01870; 19-cv-01871; 19-cv-01873; 19-cv-01894; 19-cv-01896; 19-cv-01918; 19-cv-01922; 19-cv-01926; 19-cv-01928; 19-cv-01929; 19-cv-01931; 21-cv-05339

**PROPOSED SPECIAL VERDICT FORM FOR MICHAEL BEN-JACOB**

**Please Indicate Your Verdict with a Check Mark (✓)**

**Fraud**

1. For each plan listed below that submitted a reclaim application to Plaintiff, did Plaintiff prove by clear and convincing evidence that Michael Ben-Jacob made a false, material statement of fact to Plaintiff?

Case No.	Pension Plan	Yes	No
19-cv-01785	Albedo Management LLC Roth 401(K) Plan		
19-cv-01781	Ballast Ventures LLC Roth 401(K) Plan		
19-cv-01794	Battu Holdings LLC Roth 401K Plan		
19-cv-01926	Green Scale Management LLC Roth 401(K) Plan		
19-cv-01806	Loggerhead Services LLC Roth 401(K) Plan		
19-cv-01894	Omineca Pension Plan		
19-cv-01809	Plumrose Industries LLC Roth 401K Plan		
18-cv-04434	The Stor Capital Consulting LLC 401K Plan		
19-cv-01918	Vanderlee Technologies Pension Plan		

IF YOU ANSWERED YES AS TO ANY OF THE PLANS ABOVE, PROCEED TO QUESTION 2 FOR THAT PLAN.

IF YOU ANSWERED NO AS TO ANY OF THE PLANS ABOVE, DO NOT ANSWER QUESTIONS 2-5 AS TO THAT PLAN AND PROCEED TO QUESTION 6.

2. For each plan for which you answered “Yes” in Question 1, did Plaintiff prove by clear and convincing evidence that Michael Ben-Jacob knew that the statement was false or that in making the statement he acted recklessly without regard to whether it was true or false?

Case No.	Pension Plan	Yes	No
19-cv-01785	Albedo Management LLC Roth 401(K) Plan		
19-cv-01781	Ballast Ventures LLC Roth 401(K) Plan		
19-cv-01794	Battu Holdings LLC Roth 401K Plan		
19-cv-01926	Green Scale Management LLC Roth 401(K) Plan		
19-cv-01806	Loggerhead Services LLC Roth 401(K) Plan		
19-cv-01894	Omineca Pension Plan		
19-cv-01809	Plumrose Industries LLC Roth 401K Plan		
18-cv-04434	The Stor Capital Consulting LLC 401K Plan		
19-cv-01918	Vanderlee Technologies Pension Plan		

IF YOU ANSWERED YES AS TO ANY OF THE PLANS ABOVE, PROCEED TO QUESTION 3 FOR THAT PLAN.

IF YOU ANSWERED NO AS TO ANY OF THE PLANS ABOVE, DO NOT ANSWER QUESTIONS 3-5 AS TO THAT PLAN AND PROCEED TO QUESTION 6.

3. For each plan for which you answered “Yes” in Question 2, did Plaintiff prove by clear and convincing evidence that Michael Ben-Jacob made the statement to convince Plaintiff to rely upon it?

Case No.	Pension Plan	Yes	No
19-cv-01785	Albedo Management LLC Roth 401(K) Plan		
19-cv-01781	Ballast Ventures LLC Roth 401(K) Plan		
19-cv-01794	Battu Holdings LLC Roth 401K Plan		
19-cv-01926	Green Scale Management LLC Roth 401(K) Plan		
19-cv-01806	Loggerhead Services LLC Roth 401(K) Plan		

19-cv-01894	Omineca Pension Plan		
19-cv-01809	Plumrose Industries LLC Roth 401K Plan		
18-cv-04434	The Stor Capital Consulting LLC 401K Plan		
19-cv-01918	Vanderlee Technologies Pension Plan		

IF YOU ANSWERED YES AS TO ANY OF THE PLANS ABOVE, PROCEED TO QUESTION 4 FOR THAT PLAN.

IF YOU ANSWERED NO AS TO ANY OF THE PLANS ABOVE, DO NOT ANSWER QUESTIONS 4-5 AS TO THAT PLAN AND PROCEED TO QUESTION 6.

4. For each plan for which you answered “Yes” in Question 3, did Plaintiff prove by clear and convincing evidence that Plaintiff relied on the statement and that Plaintiff’s reliance was justifiable?

Case No.	Pension Plan	Yes	No
19-cv-01785	Albedo Management LLC Roth 401(K) Plan		
19-cv-01781	Ballast Ventures LLC Roth 401(K) Plan		
19-cv-01794	Battu Holdings LLC Roth 401K Plan		
19-cv-01926	Green Scale Management LLC Roth 401(K) Plan		
19-cv-01806	Loggerhead Services LLC Roth 401(K) Plan		
19-cv-01894	Omineca Pension Plan		
19-cv-01809	Plumrose Industries LLC Roth 401K Plan		
18-cv-04434	The Stor Capital Consulting LLC 401K Plan		
19-cv-01918	Vanderlee Technologies Pension Plan		

IF YOU ANSWERED YES AS TO ANY OF THE PLANS ABOVE, PROCEED TO QUESTION 5 FOR THAT PLAN.

IF YOU ANSWERED NO AS TO ANY OF THE PLANS ABOVE, DO NOT ANSWER QUESTIONS 5 AS TO THAT PLAN AND PROCEED TO QUESTION 6.

5. For each plan for which you answered “Yes” in Question 4, did Plaintiff prove by clear and convincing evidence that it sustained damages because of its justifiable reliance on the false, material statement of fact that Michael Ben-Jacob submitted?

Case No.	Pension Plan	Yes	No
19-cv-01785	Albedo Management LLC Roth 401(K) Plan		
19-cv-01781	Ballast Ventures LLC Roth 401(K) Plan		
19-cv-01794	Battu Holdings LLC Roth 401K Plan		

19-cv-01926	Green Scale Management LLC Roth 401(K) Plan		
19-cv-01806	Loggerhead Services LLC Roth 401(K) Plan		
19-cv-01894	Omineca Pension Plan		
19-cv-01809	Plumrose Industries LLC Roth 401K Plan		
18-cv-04434	The Stor Capital Consulting LLC 401K Plan		
19-cv-01918	Vanderlee Technologies Pension Plan		

PROCEED TO QUESTION 6.

**Negligent Misrepresentation**

6. For each of the plans listed below that submitted a reclaim application to Plaintiff, did Plaintiff prove by a preponderance of the evidence that Michael Ben-Jacob made statement(s) that the applicant plan was a qualified plan and/or that it was a beneficial owner of the dividend?

Case No.	Pension Plan	Yes	No
19-cv-01785	Albedo Management LLC Roth 401(K) Plan		
19-cv-01781	Ballast Ventures LLC Roth 401(K) Plan		
19-cv-01794	Battu Holdings LLC Roth 401K Plan		
19-cv-01926	Green Scale Management LLC Roth 401(K) Plan		
19-cv-01806	Loggerhead Services LLC Roth 401(K) Plan		
19-cv-01894	Omineca Pension Plan		
19-cv-01809	Plumrose Industries LLC Roth 401K Plan		
18-cv-04434	The Stor Capital Consulting LLC 401K Plan		
19-cv-01918	Vanderlee Technologies Pension Plan		

IF YOU ANSWERED YES AS TO ANY OF THE PLANS ABOVE, PROCEED TO QUESTION 7 FOR THAT PLAN.

IF YOU ANSWERED NO AS TO ANY OF THE PLANS ABOVE, PLEASE DO NOT ANSWER QUESTIONS 7-14 AS TO THAT PLAN AND PROCEED TO QUESTION 15.

7. For each plan for which you answered “Yes” in Question 6, did Plaintiff prove by a preponderance of the evidence that the statement(s) was incorrect?



Case No.	Pension Plan	Yes	No
19-cv-01785	Albedo Management LLC Roth 401(K) Plan		
19-cv-01781	Ballast Ventures LLC Roth 401(K) Plan		
19-cv-01794	Battu Holdings LLC Roth 401K Plan		
19-cv-01926	Green Scale Management LLC Roth 401(K) Plan		
19-cv-01806	Loggerhead Services LLC Roth 401(K) Plan		
19-cv-01894	Omineca Pension Plan		
19-cv-01809	Plumrose Industries LLC Roth 401K Plan		
18-cv-04434	The Stor Capital Consulting LLC 401K Plan		
19-cv-01918	Vanderlee Technologies Pension Plan		

IF YOU ANSWERED YES AS TO ANY OF THE PLANS ABOVE, PROCEED TO QUESTION 8 FOR THAT PLAN.

IF YOU ANSWERED NO AS TO ANY OF THE PLANS ABOVE, DO NOT ANSWER QUESTIONS 8-14 AS TO THAT PLAN AND PROCEED TO QUESTION 15.

8. For each plan for which you answered “Yes” in Question 7, did Plaintiff prove by a preponderance of the evidence that Michael Ben-Jacob failed to use reasonable care to ensure that the statement(s) in the reclaim applications were correct?

Case No.	Pension Plan	Yes	No
19-cv-01785	Albedo Management LLC Roth 401(K) Plan		
19-cv-01781	Ballast Ventures LLC Roth 401(K) Plan		
19-cv-01794	Battu Holdings LLC Roth 401K Plan		
19-cv-01926	Green Scale Management LLC Roth 401(K) Plan		
19-cv-01806	Loggerhead Services LLC Roth 401(K) Plan		
19-cv-01894	Omineca Pension Plan		
19-cv-01809	Plumrose Industries LLC Roth 401K Plan		
18-cv-04434	The Stor Capital Consulting LLC 401K Plan		
19-cv-01918	Vanderlee Technologies Pension Plan		

IF YOU ANSWERED YES AS TO ANY OF THE PLANS ABOVE, PROCEED TO QUESTION 9 FOR THAT PLAN.

IF YOU ANSWERED NO AS TO ANY OF THE PLANS ABOVE, DO NOT ANSWER QUESTIONS 9-14 AS TO THAT PLAN AND PROCEED TO QUESTION 15.

9. For each plan for which you answered “Yes” in Question 8, did Plaintiff prove by a preponderance of the evidence that Michael Ben-Jacob knew, or reasonably should have known, that a person in Plaintiff’s position would rely on the incorrect statement(s) in issuing dividend reclaims?

Case No.	Pension Plan	Yes	No
19-cv-01785	Albedo Management LLC Roth 401(K) Plan		
19-cv-01781	Ballast Ventures LLC Roth 401(K) Plan		
19-cv-01794	Battu Holdings LLC Roth 401K Plan		
19-cv-01926	Green Scale Management LLC Roth 401(K) Plan		
19-cv-01806	Loggerhead Services LLC Roth 401(K) Plan		
19-cv-01894	Omineca Pension Plan		
19-cv-01809	Plumrose Industries LLC Roth 401K Plan		
18-cv-04434	The Stor Capital Consulting LLC 401K Plan		
19-cv-01918	Vanderlee Technologies Pension Plan		

IF YOU ANSWERED YES AS TO ANY OF THE PLANS ABOVE, PROCEED TO QUESTION 10 FOR THAT PLAN.

IF YOU ANSWERED NO AS TO ANY OF THE PLANS ABOVE, DO NOT ANSWER QUESTIONS 10-14 AS TO THAT PLAN AND PROCEED TO QUESTION 15.

10. For each plan for which you answered “Yes” in Question 9, did Plaintiff prove by a preponderance of the evidence that Plaintiff relied on the incorrect statement(s) in issuing dividend reclaims and that Plaintiff’s reliance was reasonable?

Case No.	Pension Plan	Yes	No
19-cv-01785	Albedo Management LLC Roth 401(K) Plan		
19-cv-01781	Ballast Ventures LLC Roth 401(K) Plan		
19-cv-01794	Battu Holdings LLC Roth 401K Plan		
19-cv-01926	Green Scale Management LLC Roth 401(K) Plan		
19-cv-01806	Loggerhead Services LLC Roth 401(K) Plan		
19-cv-01894	Omineca Pension Plan		
19-cv-01809	Plumrose Industries LLC Roth 401K Plan		
18-cv-04434	The Stor Capital Consulting LLC 401K Plan		
19-cv-01918	Vanderlee Technologies Pension Plan		

IF YOU ANSWERED YES AS TO ANY OF THE PLANS ABOVE, PROCEED TO QUESTION 11 FOR THAT PLAN.

IF YOU ANSWERED NO AS TO ANY OF THE PLANS ABOVE, DO NOT ANSWER QUESTIONS 11-13 AS TO THAT PLAN AND PROCEED TO QUESTION 14.

11. For each plan for which you answered “Yes” in Question 10, did Plaintiff prove by a preponderance of the evidence that it suffered damages as a result of its reasonable reliance on the incorrect statement(s) in the reclaim application(s) that you have found that Michael Ben-Jacob made?

Case No.	Pension Plan	Yes	No
19-cv-01785	Albedo Management LLC Roth 401(K) Plan		
19-cv-01781	Ballast Ventures LLC Roth 401(K) Plan		
19-cv-01794	Battu Holdings LLC Roth 401K Plan		
19-cv-01926	Green Scale Management LLC Roth 401(K) Plan		
19-cv-01806	Loggerhead Services LLC Roth 401(K) Plan		
19-cv-01894	Omineca Pension Plan		
19-cv-01809	Plumrose Industries LLC Roth 401K Plan		
18-cv-04434	The Stor Capital Consulting LLC 401K Plan		
19-cv-01918	Vanderlee Technologies Pension Plan		

IF YOU ANSWERED “YES” AS TO ANY OF THE PLANS IN QUESTION 11, PROCEED TO QUESTIONS 12-14 FOR THAT PLAN.

IF, FOR ALL PLANS LISTED IN QUESTION 11, YOU EITHER ANSWERED “NO” OR DID NOT PROVIDE AN ANSWER, PROCEED TO QUESTION 15.

12. Did Defendants prove by a preponderance of the evidence that SKAT was negligent?

YES ..... NO .....

13. Did Defendants prove by a preponderance of the evidence that SKAT’s negligence was a substantial factor in bringing about its own injuries?

YES ..... NO .....

14. If you answered “YES” to question 13, indicate the percentage of fault of SKAT and of Michael Ben-Jacob.

SKAT \_\_\_\_\_ %  
Michael Ben-Jacob \_\_\_\_\_ %

*Total*  
(Total Must Equal 100) \_\_\_\_\_ %

PROCEED TO QUESTION 15

**Aiding and Abetting Fraud**

15. For each plan listed below that submitted a reclaim application to Plaintiff, did Plaintiff prove by clear and convincing evidence that reclaim payments that Plaintiff paid were procured by fraud?

Case No.	Pension Plan	Yes	No
21-cv-05339	Alden Investments Pension Plan		
21-cv-05339	AOI Pension Plan		
21-cv-05339	Carrick Holdings Pension Plan		
21-cv-05339	Ganesha Industries Pension Plan		
21-cv-05339	Mazagran Pension Plan		
21-cv-05339	Pleasant Lake Productions Pension Plan		
18-cv-07828	Aerovane Logistics LLC Roth 401K Plan		
19-cv-01785	Albedo Management LLC Roth 401(K) Plan		
19-cv-01867	Avanix Management LLC Roth 401K Plan		
19-cv-01781	Ballast Ventures LLC Roth 401(K) Plan		
19-cv-01783	Bareroot Capital Investments LLC Roth 401(K) Plan		
19-cv-01866	Basalt Ventures LLC Roth 401(K) Plan		
19-cv-01794	Battu Holdings LLC Roth 401K Plan		
19-cv-01798	Cantata Industries LLC Roth 401(K) Plan		
19-cv-01869	Cavus Systems LLC Roth 401(K) Plan		
19-cv-01922	Cedar Hill Capital Investments LLC Roth 401(K) Plan		
19-cv-01800	Crucible Ventures LLC Roth 401(K) Plan		
19-cv-01788	Dicot Technologies LLC Roth 401(K) Plan		
19-cv-01870	Eclouge Industry LLC Roth 401(K) Plan,		
18-cv-07827	Edgepoint Capital LLC Roth 401K Plan		
19-cv-01791	Fairlie Investments LLC Roth 401(K) Plan		

19-cv-01792	First Ascent Worldwide LLC Roth 401(K) Plan		
19-cv-01928	Fulcrum Productions LLC Roth 401(K) Plan		
19-cv-01926	Green Scale Management LLC Roth 401(K) Plan		
19-cv-01868	Hadron Industries LLC Roth 401(K) Plan		
18-cv-07824	Headsail Manufacturing LLC Roth 401K Plan		
19-cv-01929	Keystone Technologies LLC Roth 401(K) Plan		
19-cv-01803	Limelight Global Productions LLC Roth 401(K) Plan		
19-cv-01806	Loggerhead Services LLC Roth 401(K) Plan		
19-cv-01801	Monomer Industries LLC Roth 401(K) Plan		
19-cv-01894	Omineca Pension Plan		
19-cv-01808	PAB Facilities Global LLC Roth 401(K) Plan		
19-cv-01810	Pinax Holdings LLC Roth 401(K) Plan		
19-cv-01809	Plumrose Industries LLC Roth 401K Plan		
19-cv-01812	Roadcraft Technologies LLC Roth 401(K) Plan		
19-cv-01896	Routt Capital Pension Plan		
19-cv-01871	Starfish Capital Management LLC Roth 401(K) Plan		
19-cv-01813	Sternway Logistics LLC Roth 401(K) Plan		
18-cv-07829	Random Holdings 401K Plan		
18-cv-04434	The Stor Capital Consulting LLC 401K Plan		
19-cv-01815	Trailing Edge Productions LLC Roth 401(K) Plan		
19-cv-01818	True Wind Investments LLC Roth 401(K) Plan		
19-cv-01931	Tumba Systems LLC Roth 401(K) Plan,		
19-cv-01918	Vanderlee Technologies Pension Plan		
19-cv-01873	Voojo Productions LLC Roth 401(K) Plan		
19-cv-10713	2321 Capital Pension Plan		
19-cv-01893	Azalea Pension Plan		
19-cv-01895	Batavia Capital Pension Plan		
19-cv-01865	Bernina Pension Plan		
19-cv-10713	Bowline Management Pension Plan		
19-cv-10713	California Catalog Company Pension Plan		
19-cv-01904	Calypso Investments Pension Plan		
19-cv-10713	Clove Pension Plan		

19-cv-10713	Davin Investments Pension Plan		
19-cv-10713	Delvian LLC Pension Plan		
19-cv-10713	DFL Investments Pension Plan		
19-cv-10713	Laegeler Asset Management Pension Plan		
19-cv-10713	Lion Advisory Inc. Pension Plan		
19-cv-01906	Michelle Investments Pension Plan		
19-cv-10713	Mill River Capital Management Pension Plan		
19-cv-10713	Next Level Pension Plan		
19-cv-10713	Rajan Investments LLC Pension Plan		
18-cv-04833	Raubritter LLC Pension Plan		
19-cv-01898	Remece Investments LLC Pension Plan		
19-cv-01898	RJM Capital Pension Plan		
19-cv-10713	Spirit on the Water Pension Plan		
19-cv-01930	Tarvos Pension Plan		
19-cv-10713	Traden Investments Pension Plan		
19-cv-01924	Xiphias LLC Pension Plan		

IF YOU ANSWERED YES AS TO ANY OF THE PLANS ABOVE, PROCEED TO QUESTION 16 FOR THAT PLAN.

IF YOU ANSWERED NO AS TO ANY OF THE PLANS ABOVE, DO NOT ANSWER QUESTIONS 16-17 AS TO THAT PLAN AND PROCEED TO QUESTION 18.

16. For each plan for which you answered “Yes” in Question 15, did Plaintiff prove by clear and convincing evidence that Michael Ben-Jacob had actual knowledge of the fraud (i.e., that reclaim applications were submitted to Plaintiff that contained a false, material statement of fact in order to convince Plaintiff to issue reclaim payments on which Plaintiff justifiably relied)?

Case No.	Pension Plan	Yes	No
21-cv-05339	Alden Investments Pension Plan		
21-cv-05339	AOI Pension Plan		
21-cv-05339	Carrick Holdings Pension Plan		
21-cv-05339	Ganesha Industries Pension Plan		
21-cv-05339	Mazagran Pension Plan		
21-cv-05339	Pleasant Lake Productions Pension Plan		
18-cv-07828	Aerovane Logistics LLC Roth 401K Plan		

19-cv-01785	Albedo Management LLC Roth 401(K) Plan		
19-cv-01867	Avanix Management LLC Roth 401K Plan		
19-cv-01781	Ballast Ventures LLC Roth 401(K) Plan		
19-cv-01783	Bareroot Capital Investments LLC Roth 401(K) Plan		
19-cv-01866	Basalt Ventures LLC Roth 401(K) Plan		
19-cv-01794	Battu Holdings LLC Roth 401K Plan		
19-cv-01798	Cantata Industries LLC Roth 401(K) Plan		
19-cv-01869	Cavus Systems LLC Roth 401(K) Plan		
19-cv-01922	Cedar Hill Capital Investments LLC Roth 401(K) Plan		
19-cv-01800	Crucible Ventures LLC Roth 401(K) Plan		
19-cv-01788	Dicot Technologies LLC Roth 401(K) Plan		
19-cv-01870	Eclouge Industry LLC Roth 401(K) Plan,		
18-cv-07827	Edgepoint Capital LLC Roth 401K Plan		
19-cv-01791	Fairlie Investments LLC Roth 401(K) Plan		
19-cv-01792	First Ascent Worldwide LLC Roth 401(K) Plan		
19-cv-01928	Fulcrum Productions LLC Roth 401(K) Plan		
19-cv-01926	Green Scale Management LLC Roth 401(K) Plan		
19-cv-01868	Hadron Industries LLC Roth 401(K) Plan		
18-cv-07824	Headsail Manufacturing LLC Roth 401K Plan		
19-cv-01929	Keystone Technologies LLC Roth 401(K) Plan		
19-cv-01803	Limelight Global Productions LLC Roth 401(K) Plan		
19-cv-01806	Loggerhead Services LLC Roth 401(K) Plan		
19-cv-01801	Monomer Industries LLC Roth 401(K) Plan		
19-cv-01894	Omineca Pension Plan		
19-cv-01808	PAB Facilities Global LLC Roth 401(K) Plan		
19-cv-01810	Pinax Holdings LLC Roth 401(K) Plan		
19-cv-01809	Plumrose Industries LLC Roth 401K Plan		
19-cv-01812	Roadcraft Technologies LLC Roth 401(K) Plan		
19-cv-01896	Routt Capital Pension Plan		
19-cv-01871	Starfish Capital Management LLC Roth 401(K) Plan		
19-cv-01813	Sternway Logistics LLC Roth 401(K) Plan		
18-cv-07829	Random Holdings 401K Plan		

18-cv-04434	The Stor Capital Consulting LLC 401K Plan		
19-cv-01815	Trailing Edge Productions LLC Roth 401(K) Plan		
19-cv-01818	True Wind Investments LLC Roth 401(K) Plan		
19-cv-01931	Tumba Systems LLC Roth 401(K) Plan,		
19-cv-01918	Vanderlee Technologies Pension Plan		
19-cv-01873	Voojo Productions LLC Roth 401(K) Plan		
19-cv-10713	2321 Capital Pension Plan		
19-cv-01893	Azalea Pension Plan		
19-cv-01895	Batavia Capital Pension Plan		
19-cv-01865	Bernina Pension Plan		
19-cv-10713	Bowline Management Pension Plan		
19-cv-10713	California Catalog Company Pension Plan		
19-cv-01904	Calypso Investments Pension Plan		
19-cv-10713	Clove Pension Plan		
19-cv-10713	Davin Investments Pension Plan		
19-cv-10713	Delvian LLC Pension Plan		
19-cv-10713	DFL Investments Pension Plan		
19-cv-10713	Laegeler Asset Management Pension Plan		
19-cv-10713	Lion Advisory Inc. Pension Plan		
19-cv-01906	Michelle Investments Pension Plan		
19-cv-10713	Mill River Capital Management Pension Plan		
19-cv-10713	Next Level Pension Plan		
19-cv-10713	Rajan Investments LLC Pension Plan		
18-cv-04833	Raubritter LLC Pension Plan		
19-cv-01898	Remece Investments LLC Pension Plan		
19-cv-01898	RJM Capital Pension Plan		
19-cv-10713	Spirit on the Water Pension Plan		
19-cv-01930	Tarvos Pension Plan		
19-cv-10713	Traden Investments Pension Plan		
19-cv-01924	Xiphias LLC Pension Plan		

IF YOU ANSWERED YES AS TO ANY OF THE PLANS ABOVE, PROCEED TO QUESTION 17 FOR THAT PLAN.



IF YOU ANSWERED NO AS TO ANY OF THE PLANS ABOVE, DO NOT ANSWER QUESTION 17 AS TO THAT PLAN AND PROCEED TO QUESTION 18.

17. For each plan for which you answered “Yes” in Question 16, did Plaintiff prove by clear and convincing evidence that Michael Ben-Jacob provided substantial assistance in perpetrating the fraud?

Case No.	Pension Plan	Yes	No
21-cv-05339	Alden Investments Pension Plan		
21-cv-05339	AOI Pension Plan		
21-cv-05339	Carrick Holdings Pension Plan		
21-cv-05339	Ganesha Industries Pension Plan		
21-cv-05339	Mazagran Pension Plan		
21-cv-05339	Pleasant Lake Productions Pension Plan		
18-cv-07828	Aerovane Logistics LLC Roth 401K Plan		
19-cv-01785	Albedo Management LLC Roth 401(K) Plan		
19-cv-01867	Avanix Management LLC Roth 401K Plan		
19-cv-01781	Ballast Ventures LLC Roth 401(K) Plan		
19-cv-01783	Bareroot Capital Investments LLC Roth 401(K) Plan		
19-cv-01866	Basalt Ventures LLC Roth 401(K) Plan		
19-cv-01794	Battu Holdings LLC Roth 401K Plan		
19-cv-01798	Cantata Industries LLC Roth 401(K) Plan		
19-cv-01869	Cavus Systems LLC Roth 401(K) Plan		
19-cv-01922	Cedar Hill Capital Investments LLC Roth 401(K) Plan		
19-cv-01800	Crucible Ventures LLC Roth 401(K) Plan		
19-cv-01788	Dicot Technologies LLC Roth 401(K) Plan		
19-cv-01870	Eclouge Industry LLC Roth 401(K) Plan,		
18-cv-07827	Edgepoint Capital LLC Roth 401K Plan		
19-cv-01791	Fairlie Investments LLC Roth 401(K) Plan		
19-cv-01792	First Ascent Worldwide LLC Roth 401(K) Plan		
19-cv-01928	Fulcrum Productions LLC Roth 401(K) Plan		
19-cv-01926	Green Scale Management LLC Roth 401(K) Plan		
19-cv-01868	Hadron Industries LLC Roth 401(K) Plan		
18-cv-07824	Headsail Manufacturing LLC Roth 401K Plan		

19-cv-01929	Keystone Technologies LLC Roth 401(K) Plan		
19-cv-01803	Limelight Global Productions LLC Roth 401(K) Plan		
19-cv-01806	Loggerhead Services LLC Roth 401(K) Plan		
19-cv-01801	Monomer Industries LLC Roth 401(K) Plan		
19-cv-01894	Omineca Pension Plan		
19-cv-01808	PAB Facilities Global LLC Roth 401(K) Plan		
19-cv-01810	Pinax Holdings LLC Roth 401(K) Plan		
19-cv-01809	Plumrose Industries LLC Roth 401K Plan		
19-cv-01812	Roadcraft Technologies LLC Roth 401(K) Plan		
19-cv-01896	Routt Capital Pension Plan		
19-cv-01871	Starfish Capital Management LLC Roth 401(K) Plan		
19-cv-01813	Sternway Logistics LLC Roth 401(K) Plan		
18-cv-07829	Random Holdings 401K Plan		
18-cv-04434	The Stor Capital Consulting LLC 401K Plan		
19-cv-01815	Trailing Edge Productions LLC Roth 401(K) Plan		
19-cv-01818	True Wind Investments LLC Roth 401(K) Plan		
19-cv-01931	Tumba Systems LLC Roth 401(K) Plan,		
19-cv-01918	Vanderlee Technologies Pension Plan		
19-cv-01873	Voojo Productions LLC Roth 401(K) Plan		
19-cv-10713	2321 Capital Pension Plan		
19-cv-01893	Azalea Pension Plan		
19-cv-01895	Batavia Capital Pension Plan		
19-cv-01865	Bernina Pension Plan		
19-cv-10713	Bowline Management Pension Plan		
19-cv-10713	California Catalog Company Pension Plan		
19-cv-01904	Calypso Investments Pension Plan		
19-cv-10713	Clove Pension Plan		
19-cv-10713	Davin Investments Pension Plan		
19-cv-10713	Delvian LLC Pension Plan		
19-cv-10713	DFL Investments Pension Plan		
19-cv-10713	Laegeler Asset Management Pension Plan		
19-cv-10713	Lion Advisory Inc. Pension Plan		

19-cv-01906	Michelle Investments Pension Plan		
19-cv-10713	Mill River Capital Management Pension Plan		
19-cv-10713	Next Level Pension Plan		
19-cv-10713	Rajan Investments LLC Pension Plan		
18-cv-04833	Raubritter LLC Pension Plan		
19-cv-01898	Remece Investments LLC Pension Plan		
19-cv-01898	RJM Capital Pension Plan		
19-cv-10713	Spirit on the Water Pension Plan		
19-cv-01930	Tarvos Pension Plan		
19-cv-10713	Traden Investments Pension Plan		
19-cv-01924	Xiphias LLC Pension Plan		

PROCEED TO QUESTION 18.

### **Civil Conspiracy**

18. For each plan listed below that submitted a reclaim application to Plaintiff, did Plaintiff prove by a preponderance of the evidence that Michael Ben-Jacob entered into an agreement with at least one other individual for the plans to submit reclaim applications that contained a false, material statement of fact?

<b>Case No.</b>	<b>Pension Plan</b>	<b>Yes</b>	<b>No</b>
21-cv-05339	Alden Investments Pension Plan		
21-cv-05339	AOI Pension Plan		
21-cv-05339	Carrick Holdings Pension Plan		
21-cv-05339	Ganesha Industries Pension Plan		
21-cv-05339	Mazagran Pension Plan		
21-cv-05339	Pleasant Lake Productions Pension Plan		
19-cv-10713	2321 Capital Pension Plan		
19-cv-01893	Azalea Pension Plan		
19-cv-01895	Batavia Capital Pension Plan		
19-cv-01865	Bernina Pension Plan		
19-cv-10713	Bowline Management Pension Plan		
19-cv-10713	California Catalog Company Pension Plan		
19-cv-01904	Calypso Investments Pension Plan		
19-cv-10713	Clove Pension Plan		

19-cv-10713	Davin Investments Pension Plan		
19-cv-10713	Delvian LLC Pension Plan		
19-cv-10713	DFL Investments Pension Plan		
19-cv-10713	Laegeler Asset Management Pension Plan		
19-cv-10713	Lion Advisory Inc. Pension Plan		
19-cv-01906	Michelle Investments Pension Plan		
19-cv-10713	Mill River Capital Management Pension Plan		
19-cv-10713	Next Level Pension Plan		
19-cv-10713	Rajan Investments LLC Pension Plan		
18-cv-04833	Raubritter LLC Pension Plan		
19-cv-01898	Remece Investments LLC Pension Plan		
19-cv-01898	RJM Capital Pension Plan		
19-cv-10713	Spirit on the Water Pension Plan		
19-cv-01930	Tarvos Pension Plan		
19-cv-10713	Traden Investments Pension Plan		
19-cv-01924	Xiphias LLC Pension Plan		

IF YOU ANSWERED YES AS TO ANY OF THE PLANS ABOVE, PROCEED TO QUESTION 19 FOR THAT PLAN.

IF YOU ANSWERED NO AS TO ANY OF THE PLANS ABOVE, DO NOT ANSWER QUESTION 19-20 AS TO THAT PLAN AND PROCEED TO QUESTION 21.

19. For each plan for which you answered “Yes” in Question 18, did Plaintiff prove by a preponderance of the evidence that any of the individuals who entered into the agreement committed an overt act to further the agreement?

Case No.	Pension Plan	Yes	No
21-cv-05339	Alden Investments Pension Plan		
21-cv-05339	AOI Pension Plan		
21-cv-05339	Carrick Holdings Pension Plan		
21-cv-05339	Ganesha Industries Pension Plan		
21-cv-05339	Mazagran Pension Plan		
21-cv-05339	Pleasant Lake Productions Pension Plan		
19-cv-10713	2321 Capital Pension Plan		
19-cv-01893	Azalea Pension Plan		

19-cv-01895	Batavia Capital Pension Plan		
19-cv-01865	Bernina Pension Plan		
19-cv-10713	Bowline Management Pension Plan		
19-cv-10713	California Catalog Company Pension Plan		
19-cv-01904	Calypso Investments Pension Plan		
19-cv-10713	Clove Pension Plan		
19-cv-10713	Davin Investments Pension Plan		
19-cv-10713	Delvian LLC Pension Plan		
19-cv-10713	DFL Investments Pension Plan		
19-cv-10713	Laegeler Asset Management Pension Plan		
19-cv-10713	Lion Advisory Inc. Pension Plan		
19-cv-01906	Michelle Investments Pension Plan		
19-cv-10713	Mill River Capital Management Pension Plan		
19-cv-10713	Next Level Pension Plan		
19-cv-10713	Rajan Investments LLC Pension Plan		
18-cv-04833	Raubritter LLC Pension Plan		
19-cv-01898	Remece Investments LLC Pension Plan		
19-cv-01898	RJM Capital Pension Plan		
19-cv-10713	Spirit on the Water Pension Plan		
19-cv-01930	Tarvos Pension Plan		
19-cv-10713	Traden Investments Pension Plan		
19-cv-01924	Xiphias LLC Pension Plan		

IF YOU ANSWERED YES AS TO ANY OF THE PLANS ABOVE, PROCEED TO QUESTION 20 FOR THAT PLAN.

IF YOU ANSWERED NO AS TO ANY OF THE PLANS ABOVE, DO NOT ANSWER QUESTION 20 AS TO THAT PLAN AND PROCEED TO QUESTION 21.

20. For each plan for which you answered “Yes” in Question 19, did Plaintiff prove by a preponderance of the evidence that Michael Ben-Jacob conspired with others with the intent to further the purpose of submitting reclaim applications that contained a false, material statement of fact?

Case No.	Pension Plan	Yes	No
21-cv-05339	Alden Investments Pension Plan		
21-cv-05339	AOI Pension Plan		
21-cv-05339	Carrick Holdings Pension Plan		
21-cv-05339	Ganesha Industries Pension Plan		
21-cv-05339	Mazagran Pension Plan		
21-cv-05339	Pleasant Lake Productions Pension Plan		
19-cv-10713	2321 Capital Pension Plan		
19-cv-01893	Azalea Pension Plan		
19-cv-01895	Batavia Capital Pension Plan		
19-cv-01865	Bernina Pension Plan		
19-cv-10713	Bowline Management Pension Plan		
19-cv-10713	California Catalog Company Pension Plan		
19-cv-01904	Calypso Investments Pension Plan		
19-cv-10713	Clove Pension Plan		
19-cv-10713	Davin Investments Pension Plan		
19-cv-10713	Delvian LLC Pension Plan		
19-cv-10713	DFL Investments Pension Plan		
19-cv-10713	Laegeler Asset Management Pension Plan		
19-cv-10713	Lion Advisory Inc. Pension Plan		
19-cv-01906	Michelle Investments Pension Plan		
19-cv-10713	Mill River Capital Management Pension Plan		
19-cv-10713	Next Level Pension Plan		
19-cv-10713	Rajan Investments LLC Pension Plan		
18-cv-04833	Raubritter LLC Pension Plan		
19-cv-01898	Remece Investments LLC Pension Plan		
19-cv-01898	RJM Capital Pension Plan		
19-cv-10713	Spirit on the Water Pension Plan		
19-cv-01930	Tarvos Pension Plan		
19-cv-10713	Traden Investments Pension Plan		
19-cv-01924	Xiphias LLC Pension Plan		

PROCEED TO QUESTION 21

**Damages**

21. For each plan listed below, for any plan that you answered “Yes” to for Questions 1-5 (Fraud) or Questions 6-11 (Negligent Misrepresentation), what is the dollar amount of damages Plaintiff is entitled to be paid by Michael Ben-Jacob?

Case No.	Pension Plan	Damages
19-cv-01785	Albedo Management LLC Roth 401(K) Plan	
19-cv-01781	Ballast Ventures LLC Roth 401(K) Plan	
19-cv-01794	Battu Holdings LLC Roth 401K Plan	
19-cv-01926	Green Scale Management LLC Roth 401(K) Plan	
19-cv-01806	Loggerhead Services LLC Roth 401(K) Plan	
19-cv-01894	Omineca Pension Plan	
19-cv-01809	Plumrose Industries LLC Roth 401K Plan	
18-cv-04434	The Stor Capital Consulting LLC 401K Plan	
19-cv-01918	Vanderlee Technologies Pension Plan	

22. For each plan listed below, for any plan that you answered “Yes” to for Questions 18-20 (Civil Conspiracy), what is the dollar amount of damages Plaintiff is entitled to be paid by Michael Ben-Jacob?

Case No.	Pension Plan	Yes	No
21-cv-05339	Alden Investments Pension Plan		
21-cv-05339	AOI Pension Plan		
21-cv-05339	Carrick Holdings Pension Plan		
21-cv-05339	Ganesha Industries Pension Plan		
21-cv-05339	Mazagran Pension Plan		
21-cv-05339	Pleasant Lake Productions Pension Plan		
19-cv-10713	2321 Capital Pension Plan		
19-cv-01893	Azalea Pension Plan		
19-cv-01895	Batavia Capital Pension Plan		
19-cv-01865	Bernina Pension Plan		
19-cv-10713	Bowline Management Pension Plan		
19-cv-10713	California Catalog Company Pension Plan		
19-cv-01904	Calypso Investments Pension Plan		

19-cv-10713	Clove Pension Plan		
19-cv-10713	Davin Investments Pension Plan		
19-cv-10713	Delvian LLC Pension Plan		
19-cv-10713	DFL Investments Pension Plan		
19-cv-10713	Laegeler Asset Management Pension Plan		
19-cv-10713	Lion Advisory Inc. Pension Plan		
19-cv-01906	Michelle Investments Pension Plan		
19-cv-10713	Mill River Capital Management Pension Plan		
19-cv-10713	Next Level Pension Plan		
19-cv-10713	Rajan Investments LLC Pension Plan		
18-cv-04833	Raubritter LLC Pension Plan		
19-cv-01898	Remece Investments LLC Pension Plan		
19-cv-01898	RJM Capital Pension Plan		
19-cv-10713	Spirit on the Water Pension Plan		
19-cv-01930	Tarvos Pension Plan		
19-cv-10713	Traden Investments Pension Plan		
19-cv-01924	Xiphias LLC Pension Plan		

23. For each plan listed below, for any plan that you answered “Yes” to for Questions 15-17 (Aiding and Abetting Fraud), what is the dollar amount of damages Plaintiff is entitled to be paid by Michael Ben-Jacob? **With respect to any plan for which you awarded damages in Questions 21 or 22 above, do not repeat that amount in responding to this question. Just leave that row in the form blank if you have already awarded damages pertaining to that plan in response to Questions 21 or 22 above.**

Case No.	Pension Plan	Damages
21-cv-05339	Alden Investments Pension Plan	
21-cv-05339	AOI Pension Plan	
21-cv-05339	Carrick Holdings Pension Plan	
21-cv-05339	Ganesha Industries Pension Plan	
21-cv-05339	Mazagran Pension Plan	
21-cv-05339	Pleasant Lake Productions Pension Plan	
18-cv-07828	Aerovane Logistics LLC Roth 401K Plan	
19-cv-01785	Albedo Management LLC Roth 401(K) Plan	



19-cv-01867	Avanix Management LLC Roth 401K Plan	
19-cv-01781	Ballast Ventures LLC Roth 401(K) Plan	
19-cv-01783	Bareroot Capital Investments LLC Roth 401(K) Plan	
19-cv-01866	Basalt Ventures LLC Roth 401(K) Plan	
19-cv-01794	Battu Holdings LLC Roth 401K Plan	
19-cv-01798	Cantata Industries LLC Roth 401(K) Plan	
19-cv-01869	Cavus Systems LLC Roth 401(K) Plan	
19-cv-01922	Cedar Hill Capital Investments LLC Roth 401(K) Plan	
19-cv-01800	Crucible Ventures LLC Roth 401(K) Plan	
19-cv-01788	Dicot Technologies LLC Roth 401(K) Plan	
19-cv-01870	Eclouge Industry LLC Roth 401(K) Plan,	
18-cv-07827	Edgepoint Capital LLC Roth 401K Plan	
19-cv-01791	Fairlie Investments LLC Roth 401(K) Plan	
19-cv-01792	First Ascent Worldwide LLC Roth 401(K) Plan	
19-cv-01928	Fulcrum Productions LLC Roth 401(K) Plan	
19-cv-01926	Green Scale Management LLC Roth 401(K) Plan	
19-cv-01868	Hadron Industries LLC Roth 401(K) Plan	
18-cv-07824	Headsail Manufacturing LLC Roth 401K Plan	
19-cv-01929	Keystone Technologies LLC Roth 401(K) Plan	
19-cv-01803	Limelight Global Productions LLC Roth 401(K) Plan	
19-cv-01806	Loggerhead Services LLC Roth 401(K) Plan	
19-cv-01801	Monomer Industries LLC Roth 401(K) Plan	
19-cv-01894	Omineca Pension Plan	
19-cv-01808	PAB Facilities Global LLC Roth 401(K) Plan	
19-cv-01810	Pinax Holdings LLC Roth 401(K) Plan	
19-cv-01809	Plumrose Industries LLC Roth 401K Plan	
19-cv-01812	Roadcraft Technologies LLC Roth 401(K) Plan	
19-cv-01896	Routt Capital Pension Plan	
19-cv-01871	Starfish Capital Management LLC Roth 401(K) Plan	
19-cv-01813	Sternway Logistics LLC Roth 401(K) Plan	
18-cv-07829	Random Holdings 401K Plan	
18-cv-04434	The Stor Capital Consulting LLC 401K Plan	

19-cv-01815	Trailing Edge Productions LLC Roth 401(K) Plan	
19-cv-01818	True Wind Investments LLC Roth 401(K) Plan	
19-cv-01931	Tumba Systems LLC Roth 401(K) Plan,	
19-cv-01918	Vanderlee Technologies Pension Plan	
19-cv-01873	Voojo Productions LLC Roth 401(K) Plan	
19-cv-10713	2321 Capital Pension Plan	
19-cv-01893	Azalea Pension Plan	
19-cv-01895	Batavia Capital Pension Plan	
19-cv-01865	Bernina Pension Plan	
19-cv-10713	Bowline Management Pension Plan	
19-cv-10713	California Catalog Company Pension Plan	
19-cv-01904	Calypso Investments Pension Plan	
19-cv-10713	Clove Pension Plan	
19-cv-10713	Davin Investments Pension Plan	
19-cv-10713	Delvian LLC Pension Plan	
19-cv-10713	DFL Investments Pension Plan	
19-cv-10713	Laegeler Asset Management Pension Plan	
19-cv-10713	Lion Advisory Inc. Pension Plan	
19-cv-01906	Michelle Investments Pension Plan	
19-cv-10713	Mill River Capital Management Pension Plan	
19-cv-10713	Next Level Pension Plan	
19-cv-10713	Rajan Investments LLC Pension Plan	
18-cv-04833	Raubritter LLC Pension Plan	
19-cv-01898	Remece Investments LLC Pension Plan	
19-cv-01898	RJM Capital Pension Plan	
19-cv-10713	Spirit on the Water Pension Plan	
19-cv-01930	Tarvos Pension Plan	
19-cv-10713	Traden Investments Pension Plan	
19-cv-01924	Xiphias LLC Pension Plan	

IF YOU AWARDED ANY DAMAGES IN QUESTIONS 21-23 ABOVE, PROCEED TO QUESTION 24.

IF YOU DID NOT AWARD ANY DAMAGES IN QUESTIONS 21-23 ABOVE, PROCEED TO QUESTION 26.

24. Have the Defendants proven by a preponderance of the evidence that SKAT failed to mitigate, minimize, and avoid the damages it is seeking in this case?

YES ..... NO .....

IF YOU SELECTED YES FOR QUESTION 24, PROCEED TO QUESTION 25.

IF YOU SELECTED NO PROCEED TO QUESTION 26.

25. Of the total amount of damages you would award to SKAT, what percentage should be deducted based on SKAT's failure to mitigate? For example, if you answered that SKAT should be awarded \$100, and 80% should be deducted due to SKAT's failure to mitigate, the damages award would be reduced to \$20, then you should write 80% below.

\_\_\_\_\_ %

### **Affirmative Defenses**

Please answer this "Affirmative Defenses" section only if you answered "Yes" for any of the plans in Questions 1-11 or 15-20. If you answered "No" for all plans in those questions, please skip this section and turn to the final page of this Verdict Form.

#### **Defense—Statute of Limitations (General)**

26. Has Michael Ben-Jacob proven by a preponderance of the evidence that SKAT knew or should have known of its claims against him before January 1, 2015?

YES ..... NO .....

PROCEED TO QUESTION 27.

#### **Defense—Statute of Limitations (June 2021 Complaint)**

27. Has Michael Ben-Jacob proven by a preponderance of the evidence that SKAT agreed to file claims against him before March 1, 2019?

YES ..... NO .....

PROCEED TO QUESTION 28.

**Defense—Statute of Limitations (February 2019 and June 2021 Complaints)**

28. Has Michael Ben-Jacob proven by a preponderance of the evidence that SKAT agreed to file claims against him before July 17, 2018?

YES ..... NO .....

PROCEED TO QUESTION 29.

**Defense—Statute of Limitations (June 2021 Complaint)**

29. Has Michael Ben-Jacob proven by a preponderance of the evidence that SKAT knew or reasonably could have discovered by June 16, 2019 the potential bases for its claims against Michael Ben-Jacob related to the dividend arbitrage trading carried out between August 2012 and September 2014?

YES ..... NO .....

PROCEED TO QUESTION 30.

**Defense—New York General Obligations Law § 15-108**

30. For the trading that took place on behalf of each of the plans listed below between 2012 and 2014—and not for any other plan or time period—indicate the percentage of fault for Plaintiff's injury for each of the following individuals:

Case No.	Pension Plan
19-cv-10713	2321 Capital Pension Plan
19-cv-10713	Bowline Management Pension Plan
19-cv-10713	California Catalog Company Pension Plan
19-cv-10713	Clove Pension Plan
19-cv-10713	Davin Investments Pension Plan
19-cv-10713	Delvian LLC Pension Plan
19-cv-10713	DFL Investments Pension Plan
19-cv-10713	Laegeler Asset Management Pension Plan
19-cv-10713	Lion Advisory Inc. Pension Plan
19-cv-10713	Mill River Capital Management Pension Plan
19-cv-10713	Next Level Pension Plan
19-cv-10713	Rajan Investments LLC Pension Plan

19-cv-10713	Spirit on the Water Pension Plan
19-cv-10713	Traden Investments Pension Plan
19-cv-01906	Michelle Investments Pension Plan
19-cv-01924	Xiphias LLC Pension Plan
18-cv-04833	Raubritter LLC Pension Plan
19-cv-01898	Remece Investments LLC Pension Plan

Solo/Shah \_\_\_\_\_ %

Richard Markowitz \_\_\_\_\_ %

John van Merkensteijn \_\_\_\_\_ %

Jerome Lhote \_\_\_\_\_ %

Matthew Stein \_\_\_\_\_ %

Michael Ben-Jacob \_\_\_\_\_ %

*Total* \_\_\_\_\_ %

(Total Must Equal 100)

PROCEED TO QUESTION 31.

**Defense—Revenue Rule**

31. If you awarded SKAT damages, do you find that SKAT's claims seek to recover taxes that any defendant owed to Denmark?

YES ..... NO .....